

# HOUSE . . . . . No. 2249

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By Mr. Connolly of Everett, petition of Edward G. Connolly for legislation to further regulate drag racing, so-called. Transportation.

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## The Commonwealth of Massachusetts

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In the Year Two Thousand and Five.

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### AN ACT FURTHER REGULATING DRAG RACING, SO-CALLED.

1     *Whereas*, The deferred operation of this act would tend to  
2     defeat its purpose, which is to regulate drag racing in the com-  
3     monwealth, therefore it is hereby declared to be an emergency  
4     law, necessary for the immediate preservation of the public conve-  
5     nience.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1     SECTION 1. Chapter 90 of the General Laws is hereby  
2     amended by inserting after section 17B the following section:—  
3     Section 17C. The state police and any police department in a  
4     municipality may impound any motor vehicle used in the city of  
5     Springfield by an owner or operator to accelerate at a high rate of  
6     speed in competition with another operator, whether or not there  
7     is an agreement to race, whether or not there is increased noise  
8     from skidding tires or amplified noise from racing engines, so-  
9     called drag racing, until such time as a forfeiture hearing can be  
10    heard in the manner set forth in sections 2 and 3.

1     SECTION 2. (1) The following items shall be subject to forfei-  
2     ture:—  
3     (a) any motor vehicle used or intended to be used to violate  
4     section 17C of chapter 90 of the General Laws or used to facilitate  
5     a violation of said section 17B of said chapter 90, but no forfei-  
6     ture under this act shall extinguish a perfected security interest  
7     held by a creditor in a motor vehicle at the time of filing of the  
8     forfeiture action; and

9 (b) any money, negotiable instrument, securities or other thing  
10 of value furnished or intended to be furnished in exchange for vio-  
11 lating said section 17C of said chapter 90 or for facilitating a vio-  
12 lation of said section 17C of said chapter 90.

13 (2) The following exemptions shall apply:—

14 (a) no motor vehicle used as a common carrier in the transac-  
15 tion of business as a common carrier shall be subject to forfeiture,  
16 unless the owner or other person lawfully in charge of such motor  
17 vehicle consented to or participated or intended to participate in  
18 the violation or facilitation of a violation of section 17C of chapter  
19 90 of the General Laws;

20 (b) no motor vehicle used or intended to be used to violate said  
21 section 17C of said chapter 90 or to facilitate a violation of said  
22 section 17C of said chapter 90 shall be subject to forfeiture by  
23 reason of any act or omission established by the owner thereof to  
24 have been committed or omitted by any person other than such  
25 owner while such motor vehicle was unlawfully in the possession  
26 of a person other than the owner in violation of the criminal laws  
27 of the United States, the commonwealth or any state; and

28 (c) no motor vehicle shall be subject to forfeiture unless the  
29 owner knew or should have known that such motor vehicle was  
30 used or intended to be used to violate or to facilitate a violation of  
31 said section 17C of said chapter 90.

1 SECTION 3. The superior court department shall have jurisdic-  
2 tion under any action brought pursuant to this act.

3 (a) Any city may petition the superior court in the name of the  
4 city in the nature of a proceeding in rem to order forfeiture of a  
5 motor vehicle, money or other things of value subject to forfeiture  
6 under section 2. Such proceeding shall be deemed a civil suit. Any  
7 person claiming a right in the property subject to forfeiture shall  
8 have the right to claim a trial by jury, but if such right is not  
9 claimed, the right to trial by jury shall be waived. In all such suits  
10 where the property is claimed by any person other than the city,  
11 the city shall have the burden of proving the existence of probable  
12 cause to institute the action, and any such claimant shall then have  
13 the burden of proving that the property is not forfeitable pursuant  
14 to section 2. The court shall order the city to give notice by certi-  
15 fied mail to the owner of the motor vehicle, moneys or other

16 things of value and to other persons who appear to have an  
17 interest therein, and the court shall promptly hold a hearing on the  
18 petition. Upon motion of the owner of said motor vehicle, moneys  
19 or other things of value, the court may continue the hearing on the  
20 petition pending the outcome of any criminal trial related to the  
21 violation of section 17C of chapter 90 of the General Laws, and  
22 upon a finding of not guilty, the court shall dismiss the forfeiture  
23 petition. At such forfeiture hearing the court shall hear evidence  
24 and, if no jury has been requested, make findings of fact and con-  
25 clusions of law, and shall thereupon issue a final order, from  
26 which the parties shall have such right of appeal as is provided by  
27 law. In all such suits where a final order results in a forfeiture,  
28 said final order shall provide for disposition of the motor vehicle,  
29 moneys or other things of value by the city in any manner not pro-  
30 hibited by law, including official use by an authorized law  
31 enforcement or other public agency; or by sale at public auction or  
32 by competitive bidding. The proceeds of any such sale shall be  
33 used to pay the reasonable expenses of the forfeiture proceedings,  
34 seizure, storage, maintenance of custody, advertising and notice,  
35 and the balance thereof shall be deposited in the General Fund of  
36 a city pursuant to section 53 of chapter 44 of the General Laws  
37 and shall be appropriated to the police department.

1 SECTION 4. Whoever violates section 17B of chapter 90 of the  
2 General Laws shall, in addition to forfeiture of the motor vehicle  
3 as set forth in section 3, also be punished by a fine of not less than  
4 \$500 nor more than \$1,000, and the registrar shall suspend such  
5 operator's license for a period of not less than 60 days. A subse-  
6 quent violation shall be punished by a fine of not less than \$2,000  
7 nor more than \$5,000 and a suspension of such license for a  
8 period of not less than 6 months.